



TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION

DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
TEGE EO Examinations Mail Stop 4920 DAL
1100 Commerce St.
Dallas, Texas 75242

501.03-00

Date: March 24, 2010

Release Number: **201029032**
Release Date: 7/23/10

Taxpayer Identification Number:
Person to Contact:
Employee Identification Number:
Employee Telephone Number:
(Phone)
(Fax)

LEGEND

ORG = Organization name XX =
Date Address = address

ORG
ADDRESS

LAST DATE TO FILE A PETITION
IN TAX COURT: June 22, 20XX

CERTIFIED MAIL – RETURN RECEIPT

Dear

This is a final adverse determination regarding your exempt status under section 501(c)(3) of the Internal Revenue Code (the Code). Our favorable determination letter to you dated January 3, 20XX is hereby revoked and you are no longer exempt under section 501(a) of the Code effective January 1, 20XX.

The revocation of your exempt status was made for the following reason(s):

Organizations described in IRC 501(c)(3) and exempt under section 501(a) must be both organized and operated exclusively for exempt purposes. You loaned an amount constituting 84% to 91% of your total assets back to the substantial contributor who has contributed most of your assets. Thus, this person has effectively used you as a private source of loan credit into which he could transfer excess personal funds, claimed tax deductions, while he still retained complete control of the funds and used them for purposes unrelated to your exempt purpose. Thus, your earnings inured to the benefit of this person, an insider of you, and you did not disclose any information regarding this transaction that resulted in such inurement on your Form 1023.

Contributions to your organization are no longer deductible under IRC §170 after January 1, 20XX.

You are required to file income tax returns on Form 1041. These returns should be filed with the

appropriate Service Center for the tax year ending December 31, 20XX, and for all tax years thereafter in accordance with the instructions of the return.

Processing of income tax returns and assessments of any taxes due will not be delayed should a petition for declaratory judgment be filed under section 7428 of the Internal Revenue Code.

If you decide to contest this determination under the declaratory judgment provisions of section 7428 of the Code, a petition to the United States Tax Court, the United States Claims Court, or the district court of the United States for the District of Columbia must be filed before the 91st Day after the date this determination was mailed to you. Please contact the clerk of the appropriate court for rules regarding filing petitions for declaratory judgments by referring to the enclosed Publication 892. You may write to the United States Tax Court at the following address:

You also have the right to contact the Office of the Taxpayer Advocate. Taxpayer Advocate assistance is not a substitute for established IRS procedures, such as the formal Appeals process. The Taxpayer Advocate cannot reverse a legally correct tax determination, or extend the time fixed by law that you have to file a petition in a United States court. The Taxpayer Advocate can, however, see that a tax matter that may not have been resolved through normal channels gets prompt and proper handling. You may call toll-free, and ask for Taxpayer Advocate Assistance. If you prefer, you may contact your local Taxpayer Advocate at:

If you have any questions, please contact the person whose name and telephone number are shown in the heading of this letter.

Sincerely,

Nanette M. Downing
Acting Director, EO Examinations

Enclosures:
Publication 892

**Internal Revenue Service
Tax Exempt and Government Entities Division**

Department of the Treasury

**1100 Commerce Street
Dallas, TX 75242-1027**

Date: October 29, 2009

LEGEND

ORG = Organization name **XX** = Date
Address = address

ORG
ADDRESS

Taxpayer Identification Number:
Form:
Tax Year(s) Ended:
Person to Contact/ID Number:
Contact Telephone Number:
Contact Fax Number:

**CERTIFIED MAIL - RETURN RECEIPT
REQUESTED**

Dear

We have enclosed a copy of our report of examination explaining why we believe revocation of your exempt status under section 501(c)(3) of the Internal Revenue Code is necessary.

If you accept our findings, sign, date and return the Form 6018 enclosed or take no further action. We will issue a final revocation letter.

If you do not agree with our proposed revocation, you must submit to us a written request for Appeals Office consideration within 30 days from the date of this letter to protest our decision. Your protest should include a statement of the facts, the applicable law, and arguments in support of your position.

An Appeals officer will review your case. The Appeals office is independent of the Director, EO Examinations. The Appeals Office resolves most disputes informally and promptly. The enclosed Publication 3498, *The Examination Process*, and Publication 892, *Exempt Organizations Appeal Procedures for Unagreed Issues*, explain how to appeal an Internal Revenue Service (IRS) decision. Publication 3498 also includes information on your rights as a taxpayer and the IRS collection process.

You may also request that we refer this matter for technical advice as explained in Publication 892. If we issue a determination letter to you based on technical advice, no further administrative appeal is available to you within the IRS regarding the issue that was the subject of the technical advice.

If we do not hear from you within 30 days from the date of this letter, we will process your case based on the recommendations shown in the report of examination. If you do not protest this proposed determination within 30 days from the date of this letter, the IRS will consider it to be a failure to exhaust your available administrative remedies. Section 7428(b)(2) of the Code provides, in part: "A declaratory judgment or decree under this section shall not be issued in any proceeding unless the Tax Court, the Claims Court, or the District Court of the United States for the District of Columbia determines that the organization involved has exhausted its administrative remedies within the Internal Revenue Service." We will then issue a final revocation letter. We will also notify the appropriate state officials of the revocation in accordance with section 6104(c) of the Code.

You have the right to contact the office of the Taxpayer Advocate. Taxpayer Advocate assistance is not a substitute for established IRS procedures, such as the formal appeals process. The Taxpayer Advocate cannot reverse a legally correct tax determination, or extend the time fixed by law that you have to file a petition in a United States court. The Taxpayer Advocate can, however, see that a tax matter that may not have been resolved through normal channels gets prompt and proper handling. You may call toll-free 1-877-777-4778 and ask for Taxpayer Advocate Assistance. If you prefer, you may contact your local Taxpayer Advocate at:

If you have any questions, please call the contact person at the telephone number shown in the heading of this letter. If you write, please provide a telephone number and the most convenient time to call if we need to contact you.

Thank you for your cooperation.

Sincerely,

Sunita Lough
Director, EO Examinations

Enclosures:
Publication 892
Publication 3498
Report of Examination
Form 6018

Form 886A	Department of the Treasury - Internal Revenue Service	Schedule No. or Exhibit
Explanation of Items		
Name of Taxpayer ORG EIN:		Year/Period Ended 12/31/20XX & 12/31/20XX

LEGEND

ORG = Organization name XX = Date Address = address City = city
State = state County = county Grantors = grantors Grantor-1 &
Grantor-2 = 1st & 2nd grantor Notary = notary DIR-1 = 1st Director
Associate-1 & Associate-2 = 1st & 2nd Associates Co-1 & Co-2 = 1st & 2nd
COMPANIES

PRIMARY ISSUES:

A. Whether the exempt status of ORG ("ORG" or the "Trust") under § 501(c)(3) of the Internal Revenue Code ("IRC" or "Code")¹ should be revoked because it did not operate exclusively for exempt purposes.

B. Whether ORG's tax-exempt status should be revoked as of December 28, 20XX because it failed to disclose material facts about its operations during the application process.

PRIMARY ISSUES - FACTS:

Trust Instrument

ORG was created with a Declaration of Trust ("Declaration") by Grantors (hereinafter collectively referred to as the "Grantors" and Grantor-1 sometimes referred to as "Trustee") on December 28, 20XX. The Declaration provides that ORG was created for the purpose of establishing an organization which is described in IRC § 501(c)(3) and § 1.509(a)-4(a)(5) of the Treasury Regulations. The Declaration states that it shall be irrevocable, and that the Donor waives the right and the power to alter, amend, revoke, or terminate the Trust or any of the terms of the Declaration.

The Declaration requires that each year the Trustee shall distribute 33 ¹/₃ percent of the Trust's net income to CO-1 ("CO-1" or the "Primary Charity"), with the intent of helping CO-1 perform its functions and carry out its general charitable purposes.

The Declaration further provides that the Trustee will distribute a total of 51 ²/₃ percent of the net income of this Trust to one or more of the organizations listed on a Schedule A on or before the end of the fourth month immediately following the year in which the income was earned. There are 55 charities listed on Schedule A to the Declaration, including the Primary Charity, CO-1, and the CO-2 ("CO-2").

There have been five trustees acting under the Declaration, appointed as follows:

- Two trustees appointed by CO-1.

¹ Unless otherwise stated, all section references are to the Internal Revenue Code of 19XX, as amended (the "Code"). All regulatory references are to the regulations promulgated under the Code.

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- Two trustees appointed by the members of a class composed of grantors and grantor's adult descendants ("grantors family").
- One trustee appointed by the trustees appointed by CO-1 and grantors' family.

Governance

Grantor-1 is [one of] ORG's [five] trustees. Grantor-1 is also a substantial contributor to ORG and, therefore, a disqualified person with respect to the Trust pursuant to IRC § 4946(a)(1)(A). ORG's initial board of trustees was comprised of five members as follows:

Grantor-1: A disqualified person because he is a substantial contributor.

Grantor-2: Grantor-1's wife, and therefore, also a disqualified person under IRC § 4946(a)(1)(D), and member of the Board of Trustees of CO-1;

Associate-1: Business associate of Grantor-1

Associate-2: Friend and business associate of Grantor-1

DIR-1: Executive director of CO-1 and appointed by CO-1.

All five board members were disclosed on ORG's tax returns.

Operations

Application for Recognition of Exempt Status

By letter dated January 3, 20XX, ORG was recognized by the Service as exempt from Federal income tax under IRC § 501(a) as an organization described in IRC § 501(c)(3), effective the date of its creation on December 28, 20XX. The Service also classified ORG as a IRC § 509(a)(3) supporting organization rather than a private foundation. The Service's determination letter was based on ORG's representations made in its application and supplemental materials. During the application process, ORG did not disclose that it would lend any amount, much less a majority, of its assets to disqualified persons.

Years Before Exam

20XX

ORG filed its initial Form 990 on July 7, 20XX, for the year ended December 31, 20XX. The initial contribution disclosed on the return was \$ in publicly traded stock.

ORG filed an amended Form 990 on November 22, 20XX, for the year ended December 31, 20XX. The contributions on this return totaled \$ which included \$ in publicly traded stock. The specific nature of the remaining non cash \$ in assets contributed were not disclosed on the tax return.

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Total revenue reported on the return was \$.

There were no expenditures reported on the return.

20XX

A direct cash contribution of \$ by Grantors was reported on ORG's Form 990. Grants disclosed on the return totaled \$ of which \$ was donated to CO-1.

Total revenue reported on the return was \$.

The board meeting Minutes of November, 20XX indicate that a loan to Grantor-1 was discussed and approved by the board members other than the Grantors. At the board meeting it was discussed and approved that ORG could loan up to \$ to the Grantors provided the loans were evidenced in written promissory notes (hereinafter, the "Notes") and secured by real property collateral. The Minutes were signed by Grantor-2.

ORG issued its first note to Grantor-1 in the amount of \$ on December 1, 20XX. ORG disclosed this loan as a receivable on line 50 of its 20XX Form 990. No other information about the note was disclosed on the return. The terms of the note were as follows:

- Initial Rate: Six Percent (6%) Per Annum
- Principle Amount: (\$)
- Maturity Date: December 1, 20XX or as otherwise renewed

The language in the Note stated that Grantor-1 would pay ORG annual interest payments with the first annual payment due and payable on December 1, 20XX. Thereafter, annual interest payments were due and payable on December 1 of each succeeding year so long as the Note remained in effect.

Upon Grantor-1's failure to make any payment of installments of interest or any part thereof within five (5) days of the date due, it was "optional with the legal holder of this Note" to declare the entire principle and interest balance hereunder due and payable, and proceedings may at once be instituted for the enforcement and collection of the same by law.

The Note was secured by real property set out and described in a certain Trust Deed With Assignment of Rents executed by Grantor-1 on the same date as the Note.

Grantor-1 signed the Note as borrower. There was no signature for ORG.

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The Deed of Trust With Assignment of Rents was notarized by Notary with an effective date of December 12, 20XX.

The Deed of Trust With Assignment of Rents stated the following:

For good and valuable consideration, including the indebtedness herein recited and the trust herein created, the receipt of which is hereby acknowledged, Trustor (Grantor-1 and Grantor-2, husband and wife, as joint tenants with full rights of survivorship and not as tenants in common) hereby GRANTS, CONVEYS AND WARRANTS TO TRUSTEE (Notary), IN TRUST, WITH POWER OF SALE AND RIGHT OF ENTRY AND POSSESSION, for the benefit and security of Beneficiary (ORG), under and subject to the terms and conditions hereinafter set forth, the real property situated in County, State of State described in EXHIBIT A attached hereto and incorporated herein by this reference;

Assignment of Rents

As additional security for all the obligations secured by this Trust Deed, Trustor hereby assigns and grants to Beneficiary a security interest in, during the continuance of this Trust Deed and during any time that obligations are owing and unpaid to Beneficiary under the Notes and related loan documentation, all rent (including room rents, daily or otherwise), proceeds, contract rights, general intangibles, instruments, issues, royalties, license or use fees or charges, credit and profits or generated from or in connection with the Property affected by this Trust Deed. The grant and assignment of rents and other charges, income, revenues, profits, etc., arising from or out of the Property (as described in this paragraph and also in the granting clauses of this Trust Deed) is an absolute grant and assignment and not an assignment for security only.

Both Grantor-1 and Grantor-2 signed the Deed of Trust as Trustors. There was no signature for the Trust.

The security interest in the real property described in Exhibit A of the Deed of Trust With Assignment of Rents was never recorded with the State of State. The real property described in Exhibit A is Grantors's personal residence.

An appraisal of the real property described in Exhibit A, which was dated April 3, 20XX was conducted by a State-Certified Residential Appraiser. According to the appraisal, the value of the property located at Address, City, State was \$.

Years Under Examination

Form 886A	Department of the Treasury - Internal Revenue Service Explanation of Items	Schedule No. or Exhibit
Name of Taxpayer ORG EIN:		Year/Period Ended 12/31/20XX & 12/31/20XX

20XX

A direct cash contribution of \$ by Grantors was reported on the 20XX Form 990. Grants disclosed on the return totaled \$ of which \$ was distributed to CO-1.

ORG issues three additional Notes to Grantor-1 in 20XX, all of which carried a 6% annual interest rate, had maturity dates five years subsequent, and contained the same language as the first Note described above for the 20XX tax year and included the same Deed of Trust With Assignment of Rents as security. ORG issued Notes to Grantor-1 in the principal amounts of \$, \$, and \$ on February 1, 20XX; March 10, 20XX; and May 20XX, respectively. As with the 20XX loan, the 20XX loan documents were not signed on behalf of ORG, and the security interest was not recorded. ORG received \$ in interest income in 20XX, which was not reported on its Form 990 for that year, as well as \$ in capital gain. The \$ in interest income was \$ less than the amount required to be paid under the terms of the Notes.

20XX

A direct cash contribution of \$ by Grantors was reported on the Form 990. Grants disclosed on the return totaled \$, of which \$ was distributed to CO-1. ORG received \$ in interest income in 20XX, which was not reported on its Form 990 for that year and was \$ less than the amount required to be paid under the terms of the Notes.

<u>Form 990 information</u>	20XX	20XX
Line 1		
Direct public support	\$	
Line 8d		
Net gain		
Total revenue		
Line 13		
Program services		
Line 14		
Management and general		
Line 17		
Total expenses		
Balance sheet		

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Line 45

Cash

Line 50

Receivables from officers

Line 59

Total assets

Line 66

Total liabilities

Line 70

Capital stock

Line 74

Total liabilities and net assets/fund balances \$

The following grants to charitable organizations have been made:

20XX

CO-2 \$

CO-1

Total \$

20XX

CO-2 \$

CO-1

Other 501(c)(3) Charities

Total

The following chart summarizes ORG's loans to Grantor-1, and Grantor-1's payments to ORG:

Year	Year-End Loans to Founders Principal	Total Org. Year-end Assets	Loans as % of Year-end Assets	Interest Payments Made on Loans to	Principal Payment Made on Loans to Founders
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				Founders	
20XX	\$ 0	\$		n/a	n/a
20XX	\$			\$0	\$0
Exempt status granted 1-3-20XX					
20XX					
20XX					
20XX					
20XX					
20XX					\$0

All contributions to ORG are known to have been from Grantors with the possible exception of a \$ contribution received in 20XX. ORG did not produce records to verify the source of the contribution.

ORG's 20XX Form 990 indicates the receivable from an officer decreased from \$ to \$.

As of July 20XX, with the exception of the payments noted above, none of the loans made in 20XX had been repaid, and none of the loans had been renewed.

PRIMARY ISSUES - APPLICABLE LAW:

Section 501(c)(3) exempts from Federal income tax: corporations, and any community chest, fund, or foundation, organized and operated exclusively for religious, charitable, scientific, testing for public safety, literary, or educational purposes, or for the prevention of cruelty to children or animals, no part of the net earnings of which inures to the benefit of any private shareholder or individual, no substantial part of the activities of which is carrying on propaganda, or otherwise attempting to influence legislation and which does not participate in, or intervene in (including the publishing or distributing of statements), any political campaign on behalf of any candidate for public office.

Regulation section 1.501(c)(3)-1(c)(1) provides that an organization will be regarded as "operated exclusively" for one or more exempt purposes only if it engages primarily in activities which accomplish one or more of such exempt purposes specified in section 501(c)(3). An organization will not be so regarded if more than an insubstantial part of its activities is not in furtherance of an exempt purpose.

Regulation section 1.501(c)(3)-1(c)(2) provides that an organization is not operated exclusively for one or more exempt purposes if its net earnings inure in whole or in part to the benefit of private shareholders or individuals. The words "private shareholder or individual" refer to persons having a personal and private interest in the activities of the organization. Treas. Reg. § 1.501(a)-1(c). Such private shareholders or individuals are commonly referred to for convenience as "insiders."

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Regulation section 1.501(c)(3)-1(d)(1)(ii) provides that an organization is not organized or operated exclusively for one or more exempt purposes unless it serves a public rather than a private interest. Thus, to meet the requirement of this subdivision, it is necessary for an organization to establish that it is not organized or operated for the benefit of private interests such as the creator or his family, shareholders of the organization, or persons controlled, directly or indirectly, by such private interests.

In Better Business Bureau v. United States, 326 U.S. 279 (1945), the United States Supreme Court held that regardless of the number of truly exempt purposes, the presence of a single substantial non-exempt purpose will preclude exemption under section 501(c)(3).

In People of God Community v. Commissioner, 75 T.C. 127, 133 (1980), the Tax Court held that, even though the statutory prohibition on inurement is stated in terms of net earnings, the inurement doctrine applies to unjust enrichment from an organization's gross earnings as well. See also Harding Hospital, Inc. v. United States, 505 F.2d 1068, 1072 (6th Cir. 1974).

In Founding Church of Scientology v. U.S., 412 F. 2d 1197 (Ct. Cl. 1969), the court stated that loans to an organization's founder or substantial contributor can constitute inurement that is prohibited under section 501(c)(3). In that case, the church made loans to its founder and his family and failed to produce documentation that demonstrated that the loans were advantageous to the church. The church also failed to produce documentation to show that the loans were repaid. Significantly, the court stated that "the very existence of a private source of loan credit from an organization's earnings may itself amount to inurement of benefit." Id. at 1202; see also John Marshall Law School & John Marshall University v. United States, 81-2 USTC 9514 (Ct. Cl. 1981) (noting that "the very existence of a private source of loan credit from an organization's earnings may itself amount to inurement of benefit"); Unitary Mission Church of Long Island v. Comm'r, 74 T.C. 507, 515 (1977) (same); Lowry Hosp. Ass'n v. Comm'r, 66 T.C. 850 (1976) (concluding that a hospital did not qualify for exemption under § 501(c)(3) because some of its net earnings inured to the benefit of the physician who was the organization's founder when most of the hospital's assets were loaned to a nursing home owned by the founder at interest rates that were below-market (given the level of risk involved) and not repaid until nearly 6 to 8 years later).

In Western Catholic Church v. Commissioner, 73 T.C. 196 (1979), aff'd 631 F.2d 736 (7th Cir. 1980), the Tax Court considered a church that invested in an office building that met the needs for office space of one of church founder's wholly-owned businesses. Even though the office building may have been a good investment for the church and even though the business paid a reasonable rent, the court concluded that when the church's "investments are dictated in part by the needs of private interests, it cannot be said that [the church] was operated exclusively for the public benefit." Id. at 214. The court also considered a variety of loan transactions between the church and the founder's businesses. Although inadequate records made it impossible to trace completely the financial transactions, the court determined that "it is clear that money passed

Form 886A	Department of the Treasury - Internal Revenue Service Explanation of Items	Schedule No. or Exhibit
Name of Taxpayer ORG EIN:		Year/Period Ended 12/31/20XX & 12/31/20XX

back and forth between [the church] and [the founder] and his businesses whenever one or the other needed the cash.” Id. The church was thereby utilized by the founder “as an ‘incorporated pocketbook’ into which he could transfer excess personal funds, claiming tax deductions, while he still retained complete control of the funds and used them for purposes unrelated to religious activities.” Id. Based on these and other facts, the court found that the church had failed to establish that no part of its net earnings inured to the benefit of a private shareholder or individual.

In Revenue Ruling 67-5, 1967-1 C.B. 123, it was held that a foundation controlled by the creator’s family was operated to enable the creator and his family to engage in financial activities which were beneficial to them, but detrimental to the foundation. It was further held that the foundation was operated for a substantial non-exempt purpose and served the private interests of the creator and his family. Therefore, the foundation was not entitled to exemption from Federal income tax under section 501(c)(3).

An organization may ordinarily rely on a favorable determination letter received from the Internal Revenue Service. Treas. Reg. §1.501(a)-1(a)(2); Rev. Proc. 2009-4, 2009-1 I.R.B. 118, §14.01 (cross-referencing §13.01 et seq.). An organization may not rely on a favorable determination letter, however, if the organization omitted or misstated a material fact in its application or in supporting documents. Rev. Proc. 2009-9, 2009-2 I.R.B. 256, § 11.02. In addition, an organization may not rely on a favorable determination if there is a material change, inconsistent with exemption, in the organization’s character, purposes, or methods of operation after the determination letter is issued. 26 C.F.R. IRC § 601.201(n)(3)(ii); Rev. Proc. 2009-9, § 11.02.

The Commissioner may revoke a favorable determination letter for good cause. Treas. Reg. § 1.501(a)-1(a)(2). Revocation of a determination letter may be retroactive if the organization omitted or misstated a material fact or operated in a manner materially different from that originally represented. IRC § 601.201(n)(6)(i); Rev. Proc. 2009-9, IRC § 12.01; Rev. Proc. 2009-4, IRC § 14.01 (cross-referencing IRC § 13.01 et seq.).

PRIMARY ISSUES - GOVERNMENT’S POSITION

The determination letter recognizing ORG as a tax-exempt organization described in § 501(c)(3) should be revoked because it is not operated exclusively for charitable or any other exempt purpose.

An organization is described in section 501(c)(3) only if no part of its net earnings inures to the benefit of any private shareholder or individual. IRC § 501(c)(3); Treas. Reg. § 1.501(c)(3)-1(c)(2). As numerous courts have noted, “the very existence of a private source of loan credit from an organization’s earnings may itself amount to inurement of benefit.” Founding Church of Scientology, 412 F. 2d at 1202; John Marshall Law School, 81-2 USTC 9514; Unitary Mission

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Explanation of Items		
Name of Taxpayer ORG EIN:	Year/Period Ended 12/31/20XX & 12/31/20XX	

Church, 74 T.C. at 515. This is all the more true where the loans are at interest rates that could not be secured on the market and/or are inadequately or improperly secured or enforced. See, e.g., John Marshall Law School, 81-2 USTC 9514; Lowry Hospital Ass'n, 66 T. C. at 858. The courts have also made clear that prohibited inurement occurs when an organization's investments are dictated in part by the needs of the organization's founders and/or when the founder retains complete control over an organization's funds and uses them for purposes other than the organization's exempt purposes. Western Catholic Church, 73 T.C. at 214.

In the case at hand, ORG loaned an amount constituting 84% to 91% of its total assets back to the substantial contributor who had contributed most of ORG's assets. ORG has not alleged that Grantor-1 used any of these loan amounts to further ORG's exempt purposes. Thus, Grantor-1 has effectively used ORG as a "private source of loan credit," Founding Church of Scientology, 412 F. 2d at 1202, and "as an 'incorporated pocketbook' into which he could transfer excess personal funds, claiming tax deductions, while he still retained complete control of the funds and used them for purposes unrelated to" ORG's exempt purposes, Western Catholic Church, 73 T.C. at 214. In addition, ORG has provided no evidence that its unusual investment strategy of loaning substantially all of its assets to an insider (a strategy that has so far resulted in substantial losses) was not "dictated in part by the needs of" that insider, Grantor-1, who benefited from the loans. Id. Together, these facts compel the conclusion that ORG's earnings inured to the benefit of Grantor-1.

Furthermore, as of July 20XX, subsequent to the maturity date of all of the Notes, Grantor-1 had not paid \$ of the \$ in principal he owed and ORG had taken no steps to enforce the Notes or require Grantor-1 to renew the loans. Grantor-1 also failed to pay the full \$ in interest owed at the end of 20XX and 20XX without any consequences during those years. In addition, although the Notes stated they are secured by the Trust Deed With Assignment of Rents, there is no evidence that this Deed of Trust was ever recorded. There is also no indication that Grantor-1's credit history, cash flow, or any other pertinent market data was considered before deciding upon a 6% interest rate for the Notes and no evidence that a commercial lender would have been willing to lend to Grantor-1 at such a rate. Clearly a commercial lender would not have failed to properly record its security interest and would not permit Grantor-1 to fail to make his full interest and principal payments on the dates required without demanding repayment or trying to enforce collection or without renewing the loans (seemingly at higher interest rates or more security to reflect the increased risk associated with the delinquency) as stipulated in the Notes. Accordingly, ORG made loans to a disqualified person (Grantor-1) that he could not have secured on the market from a third party and thereby bestowed a significant financial advantage on an insider. The courts have consistently held that such loans constitute prohibited inurement. See, e.g., John Marshall, 81-2 USTC 9514; Lowry Hosp. Assoc., 66 T.C. at 858-59; Orange County Agric. Soc'y, T.C. Memo 1988-380.

During the application process, ORG did not disclose that it would lend any amount, much less a majority, of its assets to disqualified persons. Moreover, ORG issued its first Note to Grantor-1

Form 886A	Department of the Treasury - Internal Revenue Service Explanation of Items	Schedule No. or Exhibit
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before the date the Service issued its determination letter recognizing ORG as exempt under section 501(c)(3). In addition, ORG operated in a manner materially different from the representations ORG made to the Service on its Form 1023 and subsequent filings. As a result, we are revoking the determination letter effective as of December 28, 20XX.

PRIMARY ISSUE - CONCLUSION:

Accordingly, ORG's status as an organization described under section 501(c)(3) should be revoked effective January 1, 20XX, because its earnings inured to the benefit of Grantor-1, an insider of the organization, and it did not disclose any information regarding the transaction that resulted such inurement on its Form 1023..

Form 1041 U.S. Income Tax Return for Estates and Trusts should be filed for tax years ending December 31, 20XX through December 31, 20XX. Subsequent returns are due no later than the 15th day of the 4th month following the close of the trust's accounting period.

Returns should be sent to the following mailing address:

Internal Revenue Service

For tax year ending December 31, 20XX Form 1041 is due April 15, 20XX, and should be sent to the following address:

Internal Revenue Service